



UNITED STATES PATENT AND TRADEMARK OFFICE

MN

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,996	09/30/2003	Peter R. Badovinatx	POU920030133US1	1617
23334 7590 05/17/2007 FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487			EXAMINER BURGESS, BARBARA N	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 05/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/674,996	Applicant(s) BADOVINATZ ET AL.	
	Examiner Barbara N. Burgess	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9-30-02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 8-14 are rejected under 35 U.S.C. 101.
3. On page 14 of the specification, Applicant has provided evidence that Applicant intends the medium to include signals. As such, the claim is drawn to a form of energy. Energy is not one of the four categories of invention and therefore this claim is not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not combination of substance and therefore not a composition of matter. The claimed invention is directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Wipfel et al. (hereinafter "Wipfel", US Patent 6,151,688).

Art Unit: 2157

As per claims 1 and 8, Wipfel discloses a method and computer readable medium comprising:

storing a set of resource equivalencies in memory (column 8, lines 16-22);

selecting at least one resource equivalency from the set of resource equivalencies (column 8, lines 54-58, column 9, lines 1-5);

selecting at least one resource from the selected resource equivalency (column 11, lines 62-67);

using the selected at least one resource as required by an autonomic computing system (column 12 lines 15-32).

As per claims 2 and 9, Wipfel discloses the method and computer readable medium of claims 1, 8, wherein the set of resource equivalencies comprises a resource equivalency representing a plurality of physically distinct resources that are logically equivalent (column 12, lines 61-67, column 13, lines 1-15).

As per claims 3 and 10, Wipfel discloses a method and computer readable medium comprising:

specifying a type of resource class for an autonomic computing system (column 10, lines 47-60);

creating at least one grouping of resources of the specified type of resource class (column 11, lines 61-67);

creating a filter from a set of attributes that define a required functional attribute of a

Art Unit: 2157

type of resource class (column 12, lines 33-45);

removing from the at least one grouping of resources any resource that does not match the filter (column 12, lines 40-45);

defining a set of resources remaining in the at least one grouping as an equivalency (column 12, lines 61-67).

As per claims 4 and 11, Wipfel discloses the method and computer readable medium of claims 3, 10, wherein the specifying a type of resource class comprises harvesting implicit relationships among resources via self-discovery (column 8, lines 16-25).

As per claims 5 and 12, Wipfel discloses the method and computer readable medium of claims 4, 11, further comprising:

discovering an additional resource (column 8, lines 50-60);

matching attributes of the additional resource to the filter (column 8, lines 65-67);

including the additional resource in the set of resources remaining in the at least one grouping as an equivalency (column 9, lines 8-12).

As per claims 6 and 13, Wipfel discloses the method and computer readable medium of claims 4, 11, further comprising:

discovering a resource deletion from an autonomic computing system (column 10, lines 13-20);

determining whether the resource deletion is represented in the set of resources

Art Unit: 2157

remaining in the at least one grouping as an equivalency (column 10, lines 35-50);
if represented in the equivalency, removing the resource from the equivalency (column 10, lines 13-20).

As per claims 7 and 14, Wipfel discloses the method and computer readable medium of claims 3,10, further comprising:

nesting two or more sets of equivalent resources within an equivalency (column 8, lines 41-50).

As per claims 15 and 22, Wipfel discloses an autonomic computing system resource manager, comprising:

memory (column 6, lines 56-67);

a resource monitor, communicatively coupled with each resource in an autonomic computing system, and with the memory, for monitoring, and exchanging data with, each resource in the autonomic computing system (column 10, lines 13-25);

an equivalency definer, communicatively coupled with each resource in the autonomic computing system, and with the memory, for defining at least one equivalency representing at least one set of equivalent resources in the autonomic computing system, and storing the at least one equivalency in the memory (column 12, lines 33-

47);

a policy generator, communicatively coupled with the memory, for providing in the memory a representation of a system-wide graph of available actions corresponding with each resource in the autonomic computing system (column 9, lines 35-43); and

an automation engine, communicatively coupled with the resource monitor, with each resource in the autonomic computing system, and with the memory, for providing available actions to at least one available resource in the autonomic computing system, the at least one available resource being selected from at least one available resource represented in the at least one equivalency in order for the autonomic computing system to establish and maintain a desired end state (column 9, lines 33-67).

As per claims 16 and 23, Wipfel discloses the autonomic computing system resource manager of claim 15, 22, further comprising:

a resource harvester, communicatively coupled with each resource in the autonomic computing system, with the resource monitor, with the equivalency definer, with the policy generator, and with the memory, for specifying implicit relationships between resources in the autonomic computing system via self discovery (column 9, lines 35-43, column 10, lines 13-25, column 12, lines 33-47).

As per claim 17, Wipfel discloses the autonomic computing system resource manager

Art Unit: 2157

of claim 15, wherein:

the policy generator further for specifying implicit relationships between resources in the autonomic computing system (column 9, lines 33-67).

As per claim 18, Wipfel discloses the autonomic computing system resource manager of claim 15, wherein:

the equivalency definer for defining at least one equivalency representing at least two sets of equivalent resources nested within at least one set of equivalent resources (column 8, lines 41-50).

As per claims 19 and 24, Wipfel discloses the autonomic computing system resource manager of claim 15, 22, wherein:

the equivalency definer for defining at least one equivalency representing a plurality of physically distinct resources that are logically equivalent in the autonomic computing system (column 12, lines 61-67, column 13, lines 1-15).

As per claims 20 and 25, Wipfel discloses the autonomic computing system resource manager of claim 15, wherein the equivalency definer defines each of the at least one equivalency representing at least one set of equivalent resources in the autonomic computing system by:

specifying a type of resource class for the autonomic computing system (column 11, lines 61-67);

Art Unit: 2157

creating at least one grouping of resources of the specified type of resource

class (column 11, lines 61-67);

creating a filter from a set of attributes that define a required functional attribute of a

type of resource (column 12, lines 33-45);

removing from the at least one grouping of resources any resource that does not match

the filter (column 12, lines 40-45);

defining a set of resources remaining in the at least one grouping as an equivalency

(column 12, lines 61-67).

As per claim 21, Wipfel discloses the autonomic computing system resource manager of claim 15, wherein the at least one set of equivalent resources comprises at least one network interface card all being logically equivalent in the autonomic computing system; and wherein the automation engine provides available actions to at least one network interface card in the autonomic computing system, the at least one network interface card being selected from at least one available network interface card represented in at least one equivalency in order for the autonomic computing system to establish and maintain a desired end state (column 9, lines 35-43, column 10, lines 13-25, column 12, lines 33-47).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N. Burgess whose telephone number is (571) 272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Ettinene can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Barbara N Burgess
Examiner
Art Unit 2157

May 14, 2007


MOUSTAFA MEKY
PRIMARY EXAMINER